

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

DATE:

Region II

SUBJECT:

Immediate Removal Funding Request for the Duane Marine Corporation Site, Perth Amboy, New Jersey and Six Month Time Extension - ACTION MEMORANDUM

FROM:

Bruce Sprague  
Response and Prevention Branch, U.S. EPA II

TO:

Christopher Daggett  
Regional Administrator

THRU:

William J. Librizzi, Director  
Emergency and Remedial Response Division

DRAFT REPORT  
FOR AGENCY REVIEW ONLY  
DO NOT DUPLICATE  
DRAFT NO. 2

10/25/84

I. PURPOSE:

A. Site Setting/Description

The New Jersey Department of Environmental Protection (NJDEP) has requested immediate EPA action to remove the surface contamination at Duane Marine that poses an imminent threat to life and health of the surrounding population. This includes removal and disposal of the contents of six roll-off containers, the contents of any open tanks, and of all the drums at the site. In addition, compatibility testing will be conducted on all the remaining tanks, and tank trailers. The contents of these vessels will be removed pending available funds at the completion of all other activities. Priority pollutant testing of the contents of the 250,000 gallon tank for identification will also be performed. The NJDEP is preparing a request for proposal to address remedial activities to be performed at the site. However, a contract is not expected to be awarded for 6 to 9 months. Though EPA has recently installed site security measures at Duane Marine, chronic vandalism including tampering with drums containing hazardous materials, has been observed since these measures were completed. Continued public access to this site, despite the security measures, is the prime reason for a second NJDEP request for an EPA CERCLA removal action at the site.

II. BACKGROUND:

The Duane Marine Corporation site is located at 26

339809



Washington Street in Perth Amboy, Middlesex County, New Jersey (Figure 1). The site directly borders the Arthur Kill, a navigable waterway of the United States. Approximately 3,700 metal 55-gallon drums, two dozen metal tanks, six tankers, three box trailers, and six roll-off dumpsters have been abandoned on the five-acre site (Figure 2).

In addition, two trucks, construction debris, and piles of spent boom and sorbent material are scattered throughout the site.

Duane Marine Corporation was an oil spill cleanup contractor that opened this site for storage, treatment, blending, and reprocessing of waste oils. The NJDEP issued a temporary operating authorization of this facility on May 9, 1978 for acceptance of all of the following waste types: tank bottoms, waste oils, oil sludge, solvents, acids, alkali solutions, and flammable liquids.

The facility was not authorized to accept PCB waste which has been found at the site. On July 7, 1980 a major fire at General Cable in the Perth Amboy Industrial Center (on Washington Street) spread to the Duane Marine facility resulting in the destruction of several buildings, boats, and vehicles. Approximately 2,000 55-gallon drums of waste chemicals were consumed during the fire. Subsequent to the fire, Duane Marine Corporation expressed no interest in continuing operations and abandoned the site.

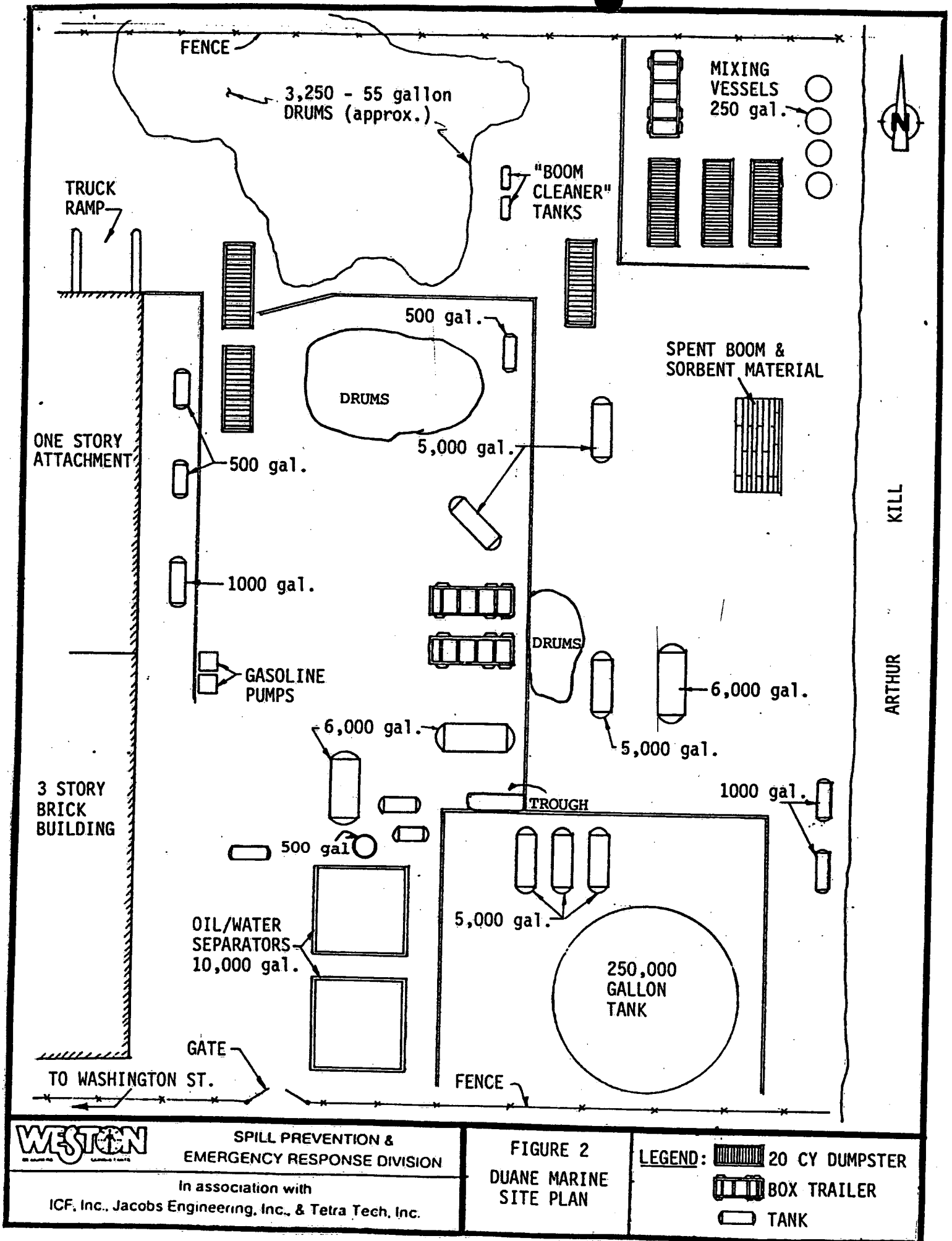
The majority of the approximately 3,700 remaining 55-gallon drums are located in the north to northwest area of the site (Figure 2). These drums are haphazardly stacked in several piles on the asphalt pavement, up to three tiers high and ten deep. Some of the drums in this area are empty, having been consumed by the July 1980 fire. The others in this area appear to contain mostly solid materials and have rusted/corroded such that labeling information is legible on only a few. Some of these drums are bulging and some do not have lids.

A much smaller drum storage area (approximately 100 drums) is located in the southeastern portion of the site. They appear to be intact. There are no containment dikes around this drum storage area.

Figure 1  
Duane Marine  
Perth Amboy, N.J.

Weston/SPER Division





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A 250,000 gallon liquid storage tank is located in the southeastern portion of the site. This steel tank is approximately thirty feet high and sits on a concrete foundation. An NJDEP sampling program conducted on June 12, 1981, showed that this tank contained PCB's at a concentration of 176 ppm. The soil surrounding this tank is stained with an oily material from previous leakage. The tank wall is punctured on the northern side, accounting for at least part of the soil contamination. This puncture may have resulted from bullet holes. In 1982, NJDEP measured the volume of the contents of the tank to be approximately 6 feet from the top of the tank. On July 13, 1984 NJDEP measured the contents of the tanks to be approximately 27 feet from the top of the tank. The reason for this disparity is uncertain at this time.

Adjacent to the liquid storage tank are an additional three 5,000 gallon waste oil treatment tanks connected in series. All four tanks are enclosed by a dike that is constructed of reinforced concrete walls. The walls are 6 inches thick, 12 feet high and 80 feet long.

The six roll-off dumpsters (i.e., 30 cubic yards each) contain solid and/or sludge like materials. The three uncovered roll-off containers were covered with plastic tarps during the Immediate Removal Action conducted in July 1984. Also, one roll-off, where the rear door had opened and some of the contents had spilled out, was resealed at this time.

The two oil/water separator tanks (i.e., 10,000 gallons each) are located adjacent to the gate entrance. They were covered with tarps, although there is evidence of oil leakage/spillage on the asphalt pavement.

Six tankers are also present on site. Three tanks are of 5,000 gallon capacity and the other three are of 6,000 gallon capacity. At least two of these tankers have leaked in the past with no means of containment present.

There are three box trailers on site, one of which has been badly damaged by a fire that was suspected to be arson.

There are fifteen small tanks located throughout the site, the largest being of 1,000 gallon capacity. Several of these tanks are rusted/corroded and a few contain what

appear to be bullet holes.

The site is located in a heavily populated, densely industrialized area. A July 1984 Immediate Removal Action by EPA under CERCLA addressed the vandalism problem by repairing the fence and boarding up first and second floor windows (blocking access to vandals entering through the dangerously deteriorated building). This was an interim measure until NJDEP could act to remove hazardous substances from this site. Repeated vandalism continues however, increasing the threat to human health via direct contact with the hazardous materials despite the repaired security measures.

PCB contaminated oil seeped from the Duane Marine shoreline in small quantities directly into the Arthur Kill on July 12, 1984. A boom is still in place. During the July 1984 Immediate Removal Action, a trenching operation determined that there is oil floating on the water table. The largest concentrations of oil were observed between the seep and the northeast corner of the diked area surrounding the 250,000 gallon tank.

The site is within 0.2 miles of a residence. Approximately 5,000 people live within 1 mile of the site, including children. Perth Amboy has a population of 39,000. Directly across from the site on Washington Street is a large propane tank enclosed by a chain-link fence. The Perth Amboy Dry Dock Company is adjacent to the site on Front Street.

#### B. Quantity and Types of Substances Present

There is an unknown quantity of hazardous materials on site. A sampling program of various tanks conducted by the NJDEP in June and August 1981 revealed the presence of the following hazardous substances:

<u>Substance</u>	<u>Statutory Source For Designation Under CERCLA</u>
Bromoform	CWA, Section 307(a)
Dichlorobromomethane	CWA, Section 307(a)
Ethylbenzene	CWA, Section 311(b)(4)
Tetrachloroethylene	CWA, Section 307(a)

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Substance

Statutory Source For  
Designation Under  
CERCLA

Trichloroethylene	CWA, Section 311(b)(4)
Total-Xylene	CWA, Section 311(b)(4)
PCB/1254	CWA, Section 311(b)(4)
PCB/1221	CWA, Section 311(b)(4)
PCB/1216	CWA, Section 311(b)(4)
Toluene	CWA, Section 311(b)(4)
Chlorobenzene	CWA, Section 311(b)(4)
1,2-Dichloroethane	CWA, Section 307(a)
1,2-Dichloropropane	CWA, Section 307(a)
Trichloroethane	CWA, Section 307(a)

The NJDEP also obtained samples from the six roll-off dumpsters in September 1981. The following hazardous substances were identified:

Substance

Statutory Source For  
Designation Under  
CERCLA

Benzene	CWA, Section 311(b)(4)
Toluene	CWA, Section 311(b)(4)
Ethylbenzene	CWA, Section 311(b)(4)
Total-Xylene	CWA, Section 311(b)(4)
Dimethyl phthalate	CWA, Section 307(a)
Butylbenzyl phthalate	CWA, Section 307(a)
Methylene chloride	CWA, Section 307(a)
1,1,1-Trichloroethane	CWA, Section 307(a)
Tetrachloroethylene	CWA, Section 307(a)
Phenol	CWA, Section 311(b)(4)
Arsenic	RCRA, Section 3001
Chromium	RCRA, Section 3001
Lead	RCRA, Section 3001
Silver	RCRA, Section 3001
Selenium	RCRA, Section 3001

Very few of the drums have manufacturer or product labels. Product labels noted include waste oils, epoxy/adhesives, sodium sulfhydrate, and caustic sodium hydroxide. Manufacturers labels include Dow Chemicals, Chevron, Anchor Chemical Company, and G. Whitfield Richards.

C. This site is not on the National Priorities List.

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III. THREAT:

A. Threat of Exposure to Public or the Environment

The threat of exposure to the public or the environment is multifold. Despite the site security measures installed in July 1984, evidence of vandalism continues to be observed at the site. EPA has observed signs that drums containing hazardous materials have been tampered with since EPA completed the site security measures. Minor repairs to the security measures have been performed (replacing window boards) since the removal action was completed. This continued site access by individuals permits them to come in direct contact with hazardous substances as indicated above.

The potential for fire and subsequent release of toxic fumes is also of concern. A fire involving an abandoned office trailer on-site in September 1983 was considered to be of suspicious nature. Remnants of fireworks were found scattered on-site on July 13, 1984. The potential for arson still exists. As secondary containment measures are virtually non-existent, any run-off from a spill/fire will flow into the Arthur Kill, a navigable waterway of the United States. Although this waterway is not of high quality, local residents do use it for recreational purposes in this area, including boating and fishing.

B. Evidence of Extent of Release

The present evidence of release includes the obvious oil staining and contaminated soil surrounding the 250,000 gallon oil storage tank. The tank wall is punctured (possibly from bullets) on the northern side accounting for some leakage. In addition, tanker leakage has been noted from discoloration/staining of soil on-site. The NJDEP reported that rainwater has caused displacement of material in the drum storage area with leachate flowing from this area to the Arthur Kill.

Additionally, on July 12, 1984, an oil spill was reported to be entering the Arthur Kill from several seeps along the edge of the site. This oil was determined to contain up to 14 ppm PCB's by USCG sampling. During the July 1984 Immediate Removal Action a trenching operation was



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conducted and oil was observed floating on the water table. The largest concentrations were observed between the seep and the northeast corner of the dike surrounding the 250,000 gallon tank.

#### C. Previous Actions To Abate Threat

The NJDEP collected samples for volatile organics analysis from eleven tanks/tankers on June 12, 1981 and also obtained samples for PCB analysis from thirteen tanks/tankers on August 11, 1981. The six roll-off dumpsters were sampled by NJDEP on September 2, 1981 for priority pollutant analysis. Two additional tanks were sampled for PCB analysis by NJDEP on November 19, 1981. Hazardous substances, including PCB's, were found as previously indicated on pages 4 and 5.

In August 1981, New Jersey Spill Fund monies were utilized to secure the site. Repeated vandalism since then and continued deterioration of waste containers resulted in a threat to human health from direct contact. There is also the potential release of toxic fumes and contaminated run-off from a fire.

In July 1984, NJDEP requested that EPA repair the site security measures and stabilize the site as they were unable to act at the time. This action was completed on September 12, 1984 at a cost of approximately \$29,000.00

D. The NJDEP is issuing a request for proposal to cover the remedial actions to be taken at the site. A contract is not expected to be awarded for 6 to 9 months from now. They have concurred that EPA should remove the surface contamination that poses an imminent threat to the public at this time.

#### IV. ENFORCEMENT:

(See attachment).

#### V. PROPOSED PROJECT AND COSTS:

A. The Objectives of this Removal Action are as Follows:

- 1) Remove the contents of the 6 roll-off containers.
- 2) Empty all open vessels (two 10,000 gallon oil/water separator tanks, one 500 gallon tank, one trough containing approximately 100 gallons of liquid) and one 5,000 gallon tank in the diked area.

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- 3) Remove all drums (empty and full). The removal of the empty drums will create enough space to allow staging and sampling of the full drums.
- 4) Remove the liquid contents of the other closed tanks on-site, then the sludges. The 250,000 gallon tank and the sludges in the 5,000 gallon tanks in the diked area will not be removed. All valves on the tanks in the diked area will be locked to remove the threat of direct contact. The potential for arson involving these tanks is minimal.

This project will be approached in a phased manner to avoid unnecessary, costly mobilization/demobilization of the ERCS contractor. The phases are described as described below:

Phase I

Sampling - to be conducted by a laboratory hired by the ERCS Contractor. (Except the compatibility tests which will be done by the ERCS Contractor).

RCRA disposal characteristics on the following:

Number of Samples

- 6 - Roll-off containers
- 2 - 10,000 gallon oil/water separator tanks
- 1 - 5,000 gallon tank (in diked area)
- 2 - 2 phases of 250,000 gallon tank

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Compatibility tests on the following:

Number of Samples

- 2 - 10,000 gallon oil water separator tanks
- 1 - 5,000 gallon tank (in diked area)
- 1 - trough
- 1 - 500 gallon tank

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Water content and fuel value on the following:

Number of Samples

- 3 - underground gas/diesel tanks

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Priority pollutant analysis on the following:

Number of Samples

2 - phases of the 250,000 gallon tank

Disposal will be arranged for the roll-off containers and all tanks tested (except the 250,000 gallon tank) upon return of the analysis results.

Phase II

Crush all empty drums and arrange for disposal.

Stage all full drums for sampling.

Phase III

Compatibility testing for all drums and tanks that were not tested during Phase I sampling.

RCRA characteristic testing on all bulked loads of drum contents (at an outside laboratory).

Disposal of all bulked loads of drummed materials will be arranged upon return of the analysis results.

Phase IV

Any remaining funds will be put towards the disposal of any tank/tank trailer contents that are not in the diked area (priority will be based on visual determination in the field).

B. Response Objectives:

1) Phase I Sampling:

- |   |            |
|---|------------|
| a) RCRA characteristics testing<br>- 11 samples @ \$150.00 each   | \$1,650.00 |
| b) Compatibility testing - 5<br>samples @ \$200.00 each           | 1,000.00   |
| c) Priority pollutant testing<br>- 2 samples @ \$1,200.00<br>each | 2,400.00   |

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d) Water content and fuel value	\$	
- 3 samples @ \$100.00 each		300.00

e) Labor and materials		<u>500.00</u>
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f) SUBTOTAL		\$5,850.00
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2) Empty Drum Removal:

Assumption: 2,500 empty drums on-site

a) Bulking and crushing empty drums - 2,500 drums @ \$15.00 each		\$37,500.00
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b) Disposal

1) 312 cubic yards (8 crushed drums per cubic yard) @ \$20.00 per cubic yard		6,240.00
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2) Transportation - 4 20 cubic yard dump trucks @ \$1,600.00 each		6,400.00
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3) Drop off charge - 4 truck loads @ \$225 each		<u>900.00</u>
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c) SUBTOTAL		\$51,040.00
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3) Compatibility Testing and Documentation:

Assumptions: Quantity of materials to be tested is:

1200 drums

14 tanks (liquid and sludge)

6 tank trailers (liquid and sludge)

Total number of samples = 1240. A substantial reduction in analytical costs may be achieved by using a mobile on-site laboratory.

a) Compatibility testing/PCB screening - 1240 samples @ \$200.00 each		\$248,000.00
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b) SUBTOTAL		<u>\$248,000.00</u>
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4) Full Drum Removal:

Assumption: Quantity of material on-site equals 1,200 full drums of which 10% are flammable liquids. The remaining drums are thought to be non-flammable solids as they have been involved in a fire. This includes approximately 30 5 gallon pails and drums located within the building.

a) Bulking material for disposal  
1,200 drum @ \$200.00 each \$240,000.00

b) Disposal

1) Non-flammable solids

a) 294 tons (1 cubic yard =  
approximately 1 ton) @  
\$75.00 per ton 22,050.00

b) Transportation -  
15 roll-off containers  
(20 cubic yards per  
roll-off) @ \$1,125.00  
each 16,875.00

c) Drop off charge -  
15 roll-off containers  
@ \$225.00 each 3,375.00

2) Flammable liquids

a) 6,600 gallons @ \$2.00  
per gallon 13,200.00

b) 2 tank trailers @  
\$1,440.00 each 2,880.00

c) Drop off charge -  
2 loads at \$225.00  
each 450.00

3) RCRA tests - 17 samples  
@ \$150 per sample 2,550.00

4) SUBTOTAL \$301,380.00

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5) Removal Of Roll-Off Contents:

Assumption: Quantity of material on-site equals 6 full 30 cubic yard containers for a total of 180 cubic yards. The roll-off containers are not road worthy. The contents of the roll-off containers are considered to be non-flammable solids.

a) Disposal

- |  |                    |
|--|--------------------|
| 1) 180 tons (1 cubic yard = approximately 1 ton) @ \$75.00 per ton | \$13,500.00        |
| 2) 3 20 cubic yard dump trucks for 2 weeks @ \$1,600 per week      | 9,600.00           |
| 3) Drop off charge - 9 loads @ \$225 each                          | 2,025.00           |
| 4) SUBTOTAL  | <u>\$25,125.00</u> |

6) Removal Of Open Tank Contents:

Assumption: Quantity of material to be removed is:

20,000 gallons from the two 10,000 gallon oil/water separator tanks

5,000 gallons from one tank within the diked area

500 gallons from one open 500 gallon tank

100 gallons from an open trough

This is a total of 25,600 gallons. The contents of these tanks are considered to be flammable liquids

- |   |            |
|---|------------|
| a) Labor and materials - 25,600 gallon @ 20¢ per gallon | \$5,120.00 |
|---|------------|

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- b) Disposal - 25,600 gallons  
at \$2.00 per gallon \$ 51,200.00
- c) Transportation - 2 tank  
trucks @ 1,440 each/  
per week for 2 weeks 5,760.00
- d) Drop-off charge - 5 loads  
@ \$225 per load 1,125.00
- e) SUBTOTAL \$63,205.00

7) Disposal Of Contents In Gasoline/Diesel  
Tanks:

Assumption: The contents of 3 fuel tanks contain  
2,000 gallons of fuel.

Depending on the results of the fuel value and  
water content analysis the fuel can be removed  
at no cost (if low quality) or at a possible  
profit of 5-10¢ per gallon, if high quality.

No Cost

8) Remove Liquid Contents Of The Closed Tanks  
On-Site:

Assumption: The quantity of materials to be  
removed is as follows:

Six tank 14,000 gallons  
trailers

Eight 500 gallon 1,000 gallons  
tanks

This is a total of 15,000 gallons. The material  
in these tanks are estimated to be flammable  
liquids.

- a) Labor and materials  
15,000 gallons @ 20¢ per  
gallon \$3,000
- b) Disposal - 15,000 gallons  
@ \$2.00 gallon 30,000

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- c) Transportation - 2  
tank trucks @ 1,440  
each \$ 2,880.00
- d) Drop off-charges  
3 loads @ \$225.00  
per load 675.00
- e) SUBTOTAL \$36,555.00

9) Remove Sludge Contents Of The Tank Trailers On Site:

Assumption: The Quantity of materials to be removed is approximately 27 cubic yards of sludge from the six tank trailers.

- a) Bulking, stabilization,  
and testing of sludge  
27 cubic yards @ \$200.00  
per cubic yard \$5,400.00
- b) Disposal - 27 cubic  
yards @ \$220.00 per  
cubic yard 5,940.00
- c) Transportation - 2  
20 cubic yard dump  
trucks @ \$1,600 each 3,200.00
- d) Drop off-charges  
2 loads @ \$225.00  
each 450.00
- e) SUBTOTAL \$14,990.00

10) Decontamination Of Empty Containers:

- a) Labor and materials \$5,000.00
- b) Steam generator for  
one week @ \$600/week 600.00
- c) SUBTOTAL \$5,600.00

11) Additional Project Costs:

- a) Command Post - 6 months  
@ \$1,050 per month 6,300.00



b)	Equipment/storage trailer - 6 months @ \$450 per month	\$ 2,700.00
c)	Lab trailer 1 month @ \$3,713 per month	<u>3,713.00</u>
d)	SUBTOTAL	\$12,713.00

Summary Of Estimated Costs For The Proposed Response Action:

1)	Phase I Sampling	\$5,850.00
2)	Empty Drum Removal	51,040.00
3)	Compatibility Testing and Documentation	248,000.00
4)	Full Drum Removal	301,380.00
5)	Removal of Roll-Off Contents	25,125.00
6)	Removal of Open Tank Contents	63,205.00
7)	Disposal of Diesel/Gasoline	No Cost
8)	Remove Liquid Contents of Closed Tanks	36,555.00
9)	Remove Sludge Contents in Tank Trailers	14,990.00
10)	Decon Empty Containers	5,600.00
11)	Additional Project Costs	<u>12,713.00</u>
12)	SUBTOTAL	\$764,458.00
13)	15% Contingency	114,668.00
14)	TAT Costs	35,000.00
15)	Intramural Costs (HQ and Region)	<u>35,000.00</u>
	TOTAL	\$949,126.00
	ROUNDED TOTAL	\$950,000.00*

\*It should be noted that \$30,000.00 already spent for emergency mitigation at the site will be applied to this ceiling.

C. Project Schedule

It is estimated that the entire removal action will take 4-6 months.

VI. AUTHORIZATION:

Conditions at the Duane Marine Corporation site meet the NCP Section 300.65 criteria for an immediate removal (i.e., it presents an immediate and significant risk of harm to human life and health because of the potential for direct human exposure to acutely toxic substances and the potential for fire). I recommend your approval of the immediate removal request with an exemption to the six month time limit for a removal action, contingent upon

the continued failure of responsible parties to take adequate action following issuance of appropriate notice or orders pursuant to the CERCL Act. The estimated total project costs are \$950,000.00 of which \$880,000.00 are for extramural costs. A total of \$30,000.00, already spent at the site for emergency mitigation measures, will be applied toward this ceiling.

Please indicate your approval or disapproval of this request by signing below and returning this memorandum to me. This approval also authorizes an exemption to the six month time limit for this removal action.

Approve: \_\_\_\_\_

Date: \_\_\_\_\_

Disapprove: \_\_\_\_\_

Date: \_\_\_\_\_

Attachments

cc: J. Marshall, 20EP  
W. Librizzi, 2ERR  
F. Rubel, 2ERR-RP  
R. Ogg, 2ERRD  
W. Mugdan, 20ORC-WTS  
G. Gherardi, 20PM-FIN  
W. Hedeman, WH-548  
H. Crump, WH-548B  
P. Flynn, PM-214-F (Express Mail)  
M. Sadat, NJDEP  
J. Frisco, 2ERR-NJRA



State of New Jersey  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
DIVISION OF WASTE MANAGEMENT  
HAZARDOUS SITE MITIGATION ADMINISTRATION  
CN 028, Trenton, N.J. 08625

MARWAN M. SADAT, P.E.  
DIRECTOR

JORGE H. BEPKOWITZ, PH.D.  
ADMINISTRATOR

16 APR 1984

Bruce Sprague, Environmental Scientist  
U.S. Environmental Protection Agency  
Region II  
U.S.A. Raritan Depot  
Woodbridge Avenue  
Edison, New Jersey 08837

Dear Mr. Sprague:

As per your request I have attached the information concerning the status of DEP's enforcement action and the investigation report from the City of Perth Amboy as the result of a fire at Duane Marine.

As suggested by Mr. Heksch, the ten day directive letter is being prepared.

Should you need any additional information, please contact me. Also, please keep the Department informed with the status of this case.

Sincerely,

Edwin Liu  
Site Manager  
Bureau of Site Management

HS10/cs  
Attachment

MEMORANDUM

TO: Edwin Lieu  
Hazardous Site Mitigation  
FROM: Ronald P. Heksch, DAG

DATE: March 27, 1984

SUBJECT: Duane Marine Corp.

I am writing to formally advise you that the above matter has been reassigned to me for handling. It is my understanding from discussions we have had that DEP wants to conduct an immediate cleanup of the Duane Marine facility in Perth Amboy with money from the Spill Fund. Given the failure of Duane Marine to act responsibly and take all action necessary to clean up its property despite legal action brought by this office and the City of Perth Amboy, I would recommend that the State-funded cleanup commence as soon as possible and that we seek treble damages from the company and its owners/operators. This being the case a Spill Fund ten-day directive letter should be sent to Duane Marine, Edward Leccareaux and any other owners or operators of the facility we know about. Thereafter, if, as expected, no response is forthcoming cleanup activities can commence. Please send me copies of the directive letters for my file and keep me advised of DEP's cleanup activities.

It is important to note that the contractor hired to do the cleanup work must understand that he will most likely have to testify in court. He should therefore be advised to carefully document all his actions and be able to fully justify his costs. Furthermore, he must be able to provide expert testimony related to the hazardous conditions at the site and the need for cleanup. Additionally, during the course of cleanup, the contractor and/or DEP should gather evidence to assist the enforcement case. This should include, but not be limited to, gathering information related to the illegal handling and/or disposal of hazardous waste at the site; gathering information related to the generators of the wastes found at the site; linking specific wastes found to specific generators, if possible, and a review of all available records related to the Duane Marine operations at the property in question.

Finally, you have asked for an outline of the State's enforcement activities to date. The following is a legal history of this case based on my review of the file. In April of 1979 Duane Marine's temporary operating authorization from DEP expired. On or about May 23, 1979 the City of Perth Amboy brought suit against the company seeking to have it cease operating. On or about June 4, 1979 DEP intervened in the aforementioned law suit. On July 31, 1979 a consent order was entered into wherein Duane Marine was permitted to continue operating provided that it would take certain action to improve its operations and begin handling the wastes it stored in an environmentally sound fashion and in full compliance with the law. Duane Marine

Edwin Lieu  
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failed to comply with the terms and conditions of the consent order in question. This was true despite numerous applications by DEP to the court to enforce the terms of the consent order.

On July 7, 1980, as you know, there was a fire at the Duane Marine facility which substantially destroyed the operations there. On July 18, 1980 the parties appeared before the court at which time Duane Marine's attorney represented to the court that the company had no interest in continuing operations as a special waste facility on the premises in question. The court ordered Duane Marine to undertake an immediate cleanup of all the remaining drums and rubble at the site. The company failed to comply with this order as well. On July 31, 1981 our office filed an application with the court seeking compliance with the July 18, 1980 court order. The State's application was made returnable in August, however, negotiations followed between counsel for the State and Duane Marine's attorney and the return date of the State's motion was adjourned indefinitely. Needless to say, the negotiations between the parties proved fruitless and Duane Marine has still not complied with previous orders of the court to clean up its property.

Again, in light of the history of this case and DEP's desire to conduct cleanup of the Duane Marine property as soon as possible, it is my opinion that a ten-day directive letter should be sent to the company and its owners and/or operators immediately. Thereafter, a State-funded cleanup should take place, after which we will sue the company and its principals for three times the cost of cleanup.

If for some reason DEP is unable to effectuate a cleanup within the next few months, please let me know so that I can pursue other remedies we might have against Duane Marine.

If you need any further information concerning this matter or require copies of the court papers, let me know.

  
R.P.H.

RPH/bf

cc: Lawrence E. Stanley, DAG